IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

WP(C).No. 16683 of 2007(J)

PETITIONER:

T.A.NASAR, THOTTUMANGALAM HOUSE,
MANGAD P.O., KOLLAM.

BY ADV. SRI.DILEEP P.PILLAI

RESPONDENTS:

1. AUTHORITY UNDER THE PAYMENT OF
GRATUITY ACT, (DISTRICT LABOURT OFFICER), KOLLAM.

2. K.GOPALAKRISHNAN, VALUVILA KIZHAKKETHIL,
NEDUMPANA P.O., KOLLAM.

BY G.P. SHRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No.16683 of 2007

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Dated this the 1st day of June, 2007

J U D G M E N T

The petitioner is the employer of the 2nd respondent. The 2nd respondent filed an application before the 1st respondent for payment of gratuity under the Payment of Gratuity Act. The petitioner entered appearance before the 1st respondent, but did not file any objections. Ultimately, the 1st respondent allowed the application and directed payment of gratuity to the 2nd respondent. After 335 days of passing that order, the petitioner filed Ext.P2 application before the 1st respondent for setting aside the ex parte order passed by the 1st respondent. However, by Ext.P3 order, that petition was dismissed. The petitioner submits that, on merits he has a very good case, since the petitioner's establishment is not liable to be covered under the Payment of Gratuity Act and the

2nd respondent is not entitled to claim gratuity since he has put in less than 2 years' service. Whatever be the contentions of the petitioner on merits, it remains a fact that there is 335 days' delay in filing the application to set aside the so-called the ex-party order. In Ext.P2 application there is not even a whisper for condonation of delay, nor has the petitioner filed a separate petition for condonation of delay. Without an application for condonation of delay, rules do not even permit the 1st respondent to consider the application of the petitioner to set aside the ex parte order. In the above circumstances, I do not find any irregularity or infirmity in Ext.P3. Accordingly, this writ petition is dismissed.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE

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P.A. to Judge.